



12 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Plevy, Howard & Darcy, PC  
P.O. Box 226  
Fort Washington, PA 19034

In re Application of LAVALLEE  
U.S. Application No.: 10/547,998  
PCT Application No.: PCT/FR04/50103  
Int. Filing Date: 11 March 2004  
Priority Date Claimed: 11 March 2003  
Attorney Docket No.: BEAUMONT-23  
For: INSTRUMENT FOR FIXING THE  
POSITION OF A CUTTING PLANE

DECISION

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 29 September 2005.

### **BACKGROUND**

On 11 March 2004, applicant filed international application PCT/FR04/50103, which claimed priority of an earlier France application filed 11 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2005.

On 09 September 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). However, the submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/FR04/50103 became abandoned as to the United States for failure to timely pay the basic national fee.

On 29 September 2005, applicant filed the present petition under 37 CFR 1.137(b).

### DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Tung  
PCT Legal Examiner  
Office of PCT Legal Administration

Telephone: 571-272-3303  
Facsimile: 571-273-0459